

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

ROSIE M. COLLIER

PLAINTIFF

v.

CASE NO. 4:05-CV-01624 GTE

**CITY OF LITTLE ROCK, ARKANSAS;
BARBARA HYATT, employee; WILLIE
CARPENTER, employee; DON FLEGAL,
Director Human Resources Department;
ANDRE BERNARD, Director of Housing and
Neighborhood**

DEFENDANTS

ORDER

Presently before the Court are Plaintiff's *Pro Se* Motion to Set Aside Order of Dismissal, the Motion to Withdraw filed by counsel for the Plaintiff, Lorraine Hatcher, and Defendants' Motion to Compel and to Extend Motion and Discovery Deadlines.

Plaintiff filed her Complaint in this case on October 25, 2005. Plaintiff's Motion for Appointment of Counsel was granted on August 9, 2006. On September 6, 2006, after two other attorneys withdrew from the matter, the Court appointed Stephen Gershner to represent the Plaintiff. On November 29, 2006, the Court relieved Mr. Gershner of all duties in the case, and directed Plaintiff to proceed *pro se*. On December 13, 2006, the Court granted Separate Defendant Willie Carpenter's Motion to Compel, which required Plaintiff to respond to the outstanding discovery on or before December 27, 2006.

On January 19, 2007, the Court granted Plaintiff's Motion to Appoint Lorraine Hatcher as counsel for the Plaintiff. On February 12, 2007, the Court granted Plaintiff's Motion for Extension of Time to Respond to Discovery, directing Plaintiff to respond to Defendant

Carpenter's outstanding discovery on or before February 23, 2007. On February 26, 2007, Defendant Carpenter filed her Motion to Dismiss pursuant to Federal Rule of Civil Procedure 41(b) for failure to comply with the Court's Order dated February 12, 2007. Rather than responding to Separate Defendant Willie Carpenter's Motion to Dismiss, on March 26, 2007, Plaintiff filed her own Motion to Dismiss Separate Defendant Willie Carpenter pursuant to Federal Rule of Civil Procedure 41(b), which the Court interpreted as a lack of opposition to the Separate Defendant's Motion to Dismiss. The Court dismissed Separate Defendant Willie Carpenter on March 26, 2007.

On April 13, 2007, Plaintiff filed her *Pro Se* Motion to Set Aside Order of Dismissal requesting that the Court set aside its Order dismissing Defendant Willie Carpenter. Plaintiff relies upon Federal Rule of Civil Procedure 60(b), stating that the Court made a clerical mistake in its Order dismissing Defendant Carpenter. Plaintiff further states that she did not want her attorney, Ms. Hatcher, to file the Motion to Dismiss and that her attorney has caused a conflict by filing said motion. Plaintiff alleges that Ms. Hatcher is "trying to make the Plaintiff lo[]se her case," and alleges violations of Model Rules 1.1 and 1.2(a). The Court denies Plaintiff's Motion to Set Aside Order. Plaintiff has not set forth an adequate basis for relief under Federal Rule of Civil Procedure 60.

On April 19, 2007, Ms. Hatcher filed her Motion to Withdraw as Counsel stating that she has been unable to effectively communicate with Ms. Collier and reach mutually satisfactory arrangements about the representation. The Court finds that the Motion to Withdraw should be granted, and Plaintiff will be directed to proceed *pro se*. However, Plaintiff is free to independently retain counsel of her own choosing.

Because the instant case is still pending, the Court will follow its standing practice of requiring withdrawing counsel to remain as counsel of record for thirty days. Plaintiff is directed to provide the Court with her current address and telephone number on or before May 24, 2007. After thirty days, the Court will grant this motion to withdraw. Until then, counsel shall remain counsel of record for the Plaintiff, and the Court will hold in abeyance the pending motion to withdraw. Ms. Hatcher is directed to provide Plaintiff with a copy of this Order.

Plaintiff is placed on notice that failure to respond to any communication from the Court within thirty (30) days may result in dismissal of the Plaintiff's case, pursuant to Local Rule 5.5(c)(2).¹ The plaintiff is hereby notified that Rule 5.5(c)(2) of the Rules of the United States District Courts for the Eastern and Western Districts of Arkansas requires *pro se* litigants to (1) promptly notify the Court and the other parties in the case of any change of address; (2) to monitor the progress of the case; and (3) to prosecute or defend the action diligently. Moreover, the Plaintiff should be aware that the rule further provides that the failure of a *pro se* plaintiff to respond to any communication from the Court within thirty (30) days may result in dismissal of the plaintiff's case. Finally, any party proceeding *pro se* shall be expected to be familiar with and follow the Federal Rules of Civil Procedure as well as the Local Rules of this Court. A copy of the Local Rules may be obtained from the District Clerk for the Eastern District of Arkansas. The Federal Rules of Civil Procedure are available in many libraries (including this Court's 2nd floor library, Room 224) and bookstores.

¹ Local Rule 5.5(c)(2) provides, in pertinent part that: "If any communication from the Court to a *pro se* plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice."

With regard to Defendants' Motion to Compel, Defendants state that they propounded Interrogatories and Requests for Production of Documents to Plaintiff on March 16, 2007, with responses due on April 19, 2007. On April 19, 2007, Ms. Hatcher filed her Motion to Withdraw as Counsel. On April 20, 2007, Defendants City of Little Rock, Barbara Hyatt, Don Flegal, and Andre Bernard filed their Motion to Compel and Extend Motion and Discovery Deadlines. Currently, the discovery deadline in this case is set for May 10, 2007, and the motions deadline is May 23, 2007. Trial in this matter is set for July 23, 2007. Defendants request that the Court enter an order compelling Plaintiff to respond to the outstanding discovery on or before a date certain, and extend the discovery deadline until June 1, 2007, and the motion deadline until June 15, 2007.

Defendants' Motion to Compel and Extend Deadlines is granted in part, and denied in part. **The Court directs Plaintiff to respond to all outstanding discovery on or before May 30, 2007.** However, because the extensions of time requested by Defendants would not allow the Court adequate time to consider any motions and the responses thereto, the Court will continue this case. An Amended Scheduling Order will issue shortly.

Plaintiff is hereby advised that her failure to timely comply with this Order will result in the *sua sponte* dismissal of this action for failure to prosecute under Federal Rule of Civil Procedure 41(b).

Accordingly,

IT IS HEREBY ORDERED THAT Plaintiff's *Pro Se* Motion to Set Aside Order of Dismissal (Docket No. 73) shall be, and is hereby, DENIED.

IT IS FURTHER ORDERED THAT the Motion to Withdraw filed by Lorraine Hatcher

(Docket No. 74) shall be, and is hereby, HELD IN ABEYANCE. **Plaintiff is directed to provide the Court with her current address and telephone number on or before May 24, 2007.**

IT IS FURTHER ORDERED THAT Defendants' Motion to Compel and to Extend Motion and Discovery Deadlines (Docket No. 75) shall be, and is hereby, GRANTED in part, and DENIED in part. **The Court directs Plaintiff to respond to all outstanding discovery on or before May 30, 2007.** The Court will issue an Amended Scheduling Order shortly.

IT IS SO ORDERED this 23rd day of April, 2007.

/s/Garnett Thomas Eisele
UNITED STATES DISTRICT JUDGE